



STATE OF WASHINGTON
DEPARTMENT OF LICENSING

FUNERAL & CEMETERY BOARD
MEETING MINUTES
SPECIAL BOARD MEETING

DATE: May 5, 2015

TIME: 9:00 am

LOCATION: ESD 113/Capital Event Center
6005 Tyee Dr SW
Tumwater, WA 98512

BOARD MEMBERS PRESENT: Ronald Messenger, Cemetery Member & Chair
Jim Letson, Cemetery Member & Vice Chair
Cameron Smock, Cemetery Member
Jeffrey Wilson, Funeral/Embalmer Member
Pete Cameron, Funeral/Embalmer Member
Todd Shifflett, Funeral/Embalmer Member
Charles Chaplin, Public Member

STAFF PRESENT: Rick Storvick, Assistant Administrator
Autumn Dryden, Administrative Assistant
Pam Griese, Inspector/Auditor

OTHERS PRESENT: Members of the public

1. Call to Order 9:02AM

1.1. Introductions

Board members, staff, and guests introduced themselves.

1.2. Order of agenda

The order of the agenda was amended as follows:

- 1.4.1 International Conference of Funeral Service Examining Boards (ICFSEB) press release
- 3.3 Request to withdraw overfunding in error from Endowment Care
- 5.1.7 2015-03-2600-00FDE

- 6.1.4 2014-09-2604-00FDE
- 6.1.5 2013-03-2404-04FDE
- 11.3.1 5-year internship clock

Mr. Letson made a MOTION to accept the agenda as amended. Mr. Wilson seconded the MOTION and it passed.

1.3. Approval of minutes: February 3, 2015

Mr. Wilson made a MOTION to approve the minutes as presented. Mr. Shifflett seconded the MOTION and it passed.

1.4. Review Communications

1.4.1. ICFSEB Press Release

Mr. Storvick shared a press release from the ICFSEB stating a settlement had been reached in a case in which the ICFSEB alleged copyright infringement and misappropriation of trade secrets related to the National Board Examination program, as well as tortious interference with test takers' confidentiality obligations to the ICFSEB.

2. Public Comment Opportunity

There was no public comment.

3. New Business

3.1. Officer elections

Mr. Messenger proposed keeping the current board officers for another year.

Mr. Letson made a MOTION to accept Mr. Messenger's recommendation. Mr. Wilson seconded the MOTION and it passed.

3.2. ICFSEB Annual Meeting report

Mr. Shifflett, Mr. Messenger, and Mr. Cameron reported on the ICFSEB Annual Meeting in Dallas, TX in February. They all found the meeting valuable and were impressed by Washington compared to other states. Ms. Doyle served on the Model Law Committee and the new model law was adopted at the meeting.

3.3. Request to withdraw trust fund income

The board reviewed a letter from Sarah O'Donnell, bookkeeper from Desert Lawn Memorial Park, which has taken over the books for Kennewick Cemetery Association dba Riverview Heights Cemetery. For the last five years some of the earnings from the endowment care trust for Riverview had been left in the account by mistake. Ms. O'Donnell requested taking \$14,472.92 (total for the last 5 years) of old income that was reflected in the state reports on Line L.

Mr. Letson made a MOTION to approve the request to withdraw funds. Mr. Cameron seconded the MOTION and it passed.

4. Old Business

4.1. Review master action items list

The master action items list was reviewed and updated.

5. Complaint Cases for Review*

5.1. Case Manager Recommendations

5.1.1. 2014-05-2603-00FDE (Wilson)

The complaint alleged the cremation of a ring with a decedent. The case manager found the ring had been inventoried and there was no violation of law or rule. Mr. Smock made a MOTION to accept the case manager's recommendation to close the case. Mr. Letson seconded the MOTION and it passed.

5.1.2. 2014-09-2605-00FDE (Wilson)

The complaint alleged unprofessional conduct after the complainant's request of a funeral home to return a metal crematory identification tag was denied. The funeral home returned the tag to the crematory so the crematory's records would be correct. The case manager found no violation of law or rule and recommended the case be closed. Mr. Cameron made a MOTION to accept the case manager's recommendation. Mr. Shifflett seconded the MOTION and it passed.

5.1.3. 2014-10-2501-00CEM (Messenger)

The complaint alleged unprofessional conduct by a complainant who believed they were overcharged for minimum cremation services. The case manager found no evidence to support the violation and recommended the case be closed. Mr. Wilson made a MOTION to accept the case manager's recommendation. Mr. Cameron seconded the MOTION and it passed.

5.1.4. 2014-12-2602-00FDE (Letson)

The complaint alleged unprofessional conduct against a funeral home for offering a member discount to members of a fraternal organization in connection with the purchase of prearranged funeral services. An investigation found no violation of law or rule and the case manager recommended closure of the case. Mr. Smock made a MOTION to accept the case manager's recommendation. Mr. Shifflett seconded the MOTION and it passed.

5.1.5. 2015-01-2600-00FDE (Shifflett)

The complaint alleged unprofessional conduct after a four week delay in getting a death certificate signed resulted in a delay in obtaining a permit to proceed with cremation. The case manager did not find any evidence the delay was directly caused by the respondent and recommended the case be closed. Mr. Cameron made a MOTION to accept the recommendation. Mr. Letson seconded the MOTION and it carried.

5.1.6. 2015-02-2602-00FDE (Shifflett)

The complaint alleged unprofessional conduct after an adult child felt his parents were deceived and led to purchase a more expensive preneed policy than they needed. The complainant cancelled the check and the policy was not issued. The case manager recommended the case be closed. Mr. Wilson made MOTION to accept the case manager's recommendation. Mr. Letson seconded the MOTION and it passed.

5.1.7. 2015-03-2600-00FDE (Shifflett)

The complaint alleged unprofessional conduct against a funeral establishment for failing to mail cremated remains to a Texas establishment in a timely manner. An investigation found the delay was due to an oversight in the shipping. The respondent corrected the issue and refunded the cost of shipping to the decedent's family. The case manager recommended the case be closed. Mr. Letson made a MOTION to accept the case manager's recommendation. Mr. Cameron seconded the MOTION and it passed.

6. Legal Issues for Deliberation*

6.1. Orders to be presented

6.1.1. 2012-10-2601-03FDE (Clark)

Agreed Order – Zane K. Fitch Sr., Funeral Director

The respondent was found to have acted as a funeral director while his license was suspended and refused to allow board inspectors to review active arrangement files.

Mr. Letson made a MOTION to accept an agreed order and impose the following sanctions:

- The respondent's funeral director license is suspended for three years. Two of the three years' suspension is stayed contingent on compliance with the following:
 - Full cooperation with random monthly audits for six months and two additional audits over the course of the balance of the stay.
- A fine of \$5,000 is assessed.

Mr. Wilson seconded the MOTION and it passed.

6.1.2. 2014-01-2400-00CEM (Messenger)

Agreed Order – West Hills Memorial Association

The respondent was charged with unprofessional conduct for citing RCW 68.46.060 as a justification for failing to provide a full refund to a consumer for an at-need marker that was not delivered. RCW 68.46-060 only pertains to pre-arrangement purchases and does not apply to the at-

need marker in this order. Although the respondent contested that their actions constitute unprofessional conduct, they admitted there were facts sufficient such that the violations could be found at a hearing and therefore, agreed to the order to mitigate risks at a hearing before the board.

Mr. Wilson made a MOTION to accept the agreed order as presented and impose the following sanctions:

- The cemetery certificate of authority of West Hills Memorial Association is reprimanded.
- A fine of \$1,000 is assessed.

Mr. Cameron seconded the MOTION and it passed.

6.1.3. 2014-04-2602-00FDE (Wilson)

Agreed Order – Dayspring & Fitch Funeral Home and Morya A. Fitch-Breland, Funeral Director

The respondent was charged with unprofessional conduct for failing to file a death certificate within three business days.

Mr. Smock made a MOTION to accept the order as presented and impose the following sanctions:

- The respondent is required to communicate with the health district registrar to better understand the three business day filing rule prior to the King County Medical Examiner's authorization and must submit a written report of how they plan to comply in the future within 90 days of the date the agreed order is served by the board.
- A fine of \$500 is assessed.

Mr. Shifflett seconded the MOTION and it passed.

6.1.4. 2014-09-2604-00FDE (Messenger)

Agreed Order – Brown's Funeral Home & Cremation Services, Funeral Establishment

The respondent was charged with unprofessional conduct for failing to comply with a previous board order. On July 24, 2014, the respondent was assessed a \$500 fine, due August 13, 2014. As of January 8, 2015, the respondent failed to submit the fine. The respondent ultimately paid the fine on April 23, 2015.

Mr. Smock made a MOTION to accept the agreed order and impose the following sanction:

- The funeral establishment license is suspended for a period of one year. The suspension is stayed provided the respondent does not violate any further laws or rules governing funeral practice for a period of one year.

Mr. Cameron seconded the MOTION and it passed.

6.1.5. 2013-03-2404-04FDE (Wilson)
Agreed Order – Bethann Grouell, Funeral Director Intern

The respondent was charged with unprofessional conduct for not verifying the identity of a decedent and releasing cremated remains to the wrong families on March 15, 2013. The mistake was discovered on March 17, 2013 and both families were contacted. On March 20, 2013 the remains were exchanged and delivered to the correct families.

Mr. Letson made a MOTION to accept the agreed order and impose the following sanctions:

- The funeral director intern license of the respondent is suspended for a period of six months. The suspension is stayed provided the respondent does not violate any further laws or rules governing funeral practice for a period of 6 months.
- A fine of \$250 is assessed.

Mr. Cameron seconded the MOTION and it passed.

7. Disciplinary & Investigation Items

7.1. Closed session deliberation report
No business.

7.2. Disciplinary cases report
Packet item; no action.

7.3. Administrative closure report
No business.

8. Assistant Attorney General's Report

No business.

9. Committee/Task Force Reports

No business.

10. Board Staff Report

10.1. Program Operations

10.1.1. Legislative update
Packet item; no action

10.1.2. Financial report
Packet item; no action.

10.1.3. Licensing demographics and trends
Packet item; no action.

10.2. Department of Licensing
No business.

10.3. Other Items
No business.

11. Other Business

11.1. Action items from this meeting
Action items from this meeting were reviewed and added to the master action items list.

11.2. Agenda items for next meeting
No agenda items were identified for the next board meeting.

11.3. Any other business
Mr. Shifflett shared a concern raised to him by a licensee. The 5-year limit on the length of an internship could cause a funeral home to lose a valuable employee if the intern doesn't wish to become a licensed funeral director. Might there be an option other than an internship or funeral director license for some of these individuals? The board formed a committee of three members – Mr. Shifflett, Mr. Wilson, and Mr. Smock – to explore the issue.

12. Adjournment 9:47AM

Submitted by: _____
Rick Storvick, Assistant Administrator Date _____

Approved by: _____
Ron Messenger, Board Chair Date _____